

## REMARKS

This application has been reviewed in light of the Office Action dated August 10, 2005. In view of the foregoing amendments and the following remarks, favorable reconsideration and withdrawal of the rejections set forth in the Office Action are respectfully requested.

Claims 1-11 are pending. Claims 6-10 have been withdrawn from consideration as directed to a non-elected invention. Claims 1, 2, 5, and 11 have been amended. Support for the claim changes can be found in the original disclosure, and therefore no new matter has been added. Claims 1, 5, 6, 8, 10 and 11 are in independent form.

### *Election-of-Species Requirement*

In the Response to Restriction and Election of Species Requirement filed on October, 22, 2004, Applicants set forth arguments to the effect that Claim 1, 5 and 11 are generic to all the species. Applicants respectfully request consideration of those arguments and acknowledgment that Claim 1, 5 and 11 are generic to all the species. Applicants made this request in the last Amendment, filed on May 23, 2005, but no response thereto was given in the Office Action.

### *Claim Rejections*

Claims 1-4 and 11 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,060,735 (*Izuha et al.*). Claim 5 was rejected under 35 U.S.C. § 103(a) as

being unpatentable over *Izuha et al.* in view of U.S. Patent No. 6,398,349 (*Murai*).

Applicants respectfully traverse these rejections.

Independent Claim 1 recites, *inter alia*, that a film-like region where crystals of a lower electrode and/or an upper electrode and crystals of a piezoelectric film are mixed exists between the lower electrode and/or the upper electrode and the piezoelectric film. Each of independent Claims 5 and 11 contains, *inter alia*, a recitation similar or identical to the above-noted recitation of Claim 1.

In regard to the above-noted feature of Claim 1, the Office Action (page 2) cites Fig. 4A of *Izuha et al.* as teaching “the bottom electrode, dielectric thin film and lower (*sic*, upper) electrode sharing the columnar grains A (a region where crystals of said lower electrode and/or said upper electrode and crystals of said piezoelectric film are mixed exists between said lower electrode and/or said upper electrode and said piezoelectric film).”

However, Applicants submit that nothing in *Izuha et al.* would teach or suggest at least that a film-like region where crystals of a lower electrode and/or an upper electrode and crystals of a piezoelectric film are mixed exists between the lower electrode and/or the upper electrode and the piezoelectric film.

*Murai* relates to a piezoelectric device and ink-jet printing head. The Office Action cites *Murai* as teaching a pressure chamber, an ink discharge port, a vibrating plate, and ink. Even if, for the sake of argument, *Murai* be deemed to teach what the Office Action contends, Applicants submit that nothing in *Murai* would teach or suggest at least that a film-like region where crystals of a lower electrode and/or an upper electrode and crystals of a

piezoelectric film are mixed exists between the lower electrode and/or the upper electrode and the piezoelectric film.

Since neither *Izuha et al.* nor *Murai*, whether taken singly or in combination (even assuming, for the sake of argument, that such combination were permissible), contains all of the elements of independent Claim 1, that claim is believed allowable over the cited art. Since each of independent Claims 5 and 11 recites a feature similar or identical to the above-discussed feature recited in Claim 1, Claims 5 and 11 are believed allowable for at least the same reasons.


A review of the other art of record has failed to reveal anything which, in Applicants' opinion, would remedy the deficiencies of the art discussed above, as references against independent Claims 1, 5 and 11. Those claims are therefore believed patentable over the art of record.

The other claims presented for examination are each dependent from independent Claim 1 and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

  
\_\_\_\_\_  
Attorney for Applicants  
Douglas W. Pinsky  
Registration No. 46,994

FITZPATRICK, CELLA, HARPER & SCINTO  
30 Rockefeller Plaza  
New York, New York 10112-3801  
Facsimile: (212) 218-2200  
DWP/tmc

DC\_MAIN 221791v1